

an additional period of time, not to exceed 30 days, for further proceedings under this section. If at the expiration of the period allotted under this paragraph the Settlement Judge has not approved a full settlement, he shall furnish to the Chief Administrative Law Judge copies of any written stipulations and orders embodying the terms of any partial settlement the parties have reached.

(2) At the termination of the settlement period without a full settlement, the Chief Administrative Law Judge shall promptly assign the case to an Administrative Law Judge other than the Settlement Judge or Chief Administrative Law Judge for appropriate action on the remaining issues. If all the parties, the Settlement Judge and the Chief Administrative Law Judge agree, the Settlement Judge may be retained as the Hearing Judge.

(g) *Non-reviewability.* Notwithstanding the provisions of § 2200.73 regarding interlocutory review, any decision concerning the assignment of any Judge and any decision by the Settlement Judge to terminate settlement proceedings under this section is not subject to review, appeal, or rehearing.

[70 FR 22791, May 3, 2005; 70 FR 25652, May 13, 2005]

## Subparts I–L [Reserved]

### Subpart M—Simplified Proceedings

SOURCE: 60 FR 41809, Aug. 14, 1995, unless otherwise noted.

#### § 2200.200 Purpose.

(a) The purpose of the Simplified Proceedings subpart is to provide simplified procedures for resolving contests under the Occupational Safety and Health Act of 1970, so that parties before the Commission may reduce the time and expense of litigation while being assured due process and a hearing that meets the requirements of the Administrative Procedure Act, 5 U.S.C. 554. These procedural rules will be applied to accomplish this purpose.

(b) Procedures under this subpart are simplified in a number of ways. The major differences between these proce-

dures and those provided in subparts A through G of the Commission's rules of procedure are as follows.

(1) Complaints and answers are not required.

(2) Pleadings generally are not required. Early discussions among the parties and the Administrative Law Judge are required to narrow and define the disputes between the parties.

(3) The Secretary is required to provide the employer with certain informational documents early in the proceeding.

(4) Discovery is not permitted except as ordered by the Administrative Law Judge.

(5) Interlocutory appeals are not permitted.

(6) Hearings are less formal. The Federal Rules of Evidence do not apply. Instead of briefs, the parties will argue their case orally before the Judge at the conclusion of the hearing. In many instances, the Judge will render his or her decision from the bench.

[60 FR 41809, Aug. 14, 1995, as amended at 70 FR 22792, May 3, 2005]

#### § 2200.201 Application.

The rules in this subpart will govern proceedings before a Judge in a case chosen for Simplified Proceedings under § 2200.203.

[60 FR 41809, Aug. 14, 1995, as amended at 62 FR 14822, Mar. 28, 1997; 62 FR 40934, July 31, 1997; 70 FR 22792, May 3, 2005]

#### § 2200.202 Eligibility for Simplified Proceedings.

(a) Those cases selected for Simplified Proceedings will be those that do not involve complex issues of law or fact. Cases appropriate for Simplified Proceedings would generally include those with one or more of the following characteristics:

- (1) Relatively few citation items,
- (2) An aggregate proposed penalty of not more than \$20,000,
- (3) No allegation of willfulness or a repeat violation,
- (4) Not involving a fatality,
- (5) A hearing that is expected to take less than two days, or
- (6) A small employer whether appearing pro se or represented by counsel.

(b) Those cases with an aggregate proposed penalty of more than \$20,000,

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but not more than \$30,000, if otherwise appropriate, may be selected for Simplified Proceedings at the discretion of the Chief Administrative Law Judge.

[62 FR 40934, July 31, 1997, as amended at 70 FR 22792, May 3, 2005]

### § 2200.203 Commencing Simplified Proceedings.

(a) *Selection.* Upon receipt of a Notice of Contest, the Chief Administrative Law Judge may, at his or her discretion, assign an appropriate case for Simplified Proceedings.

(b) *Party request.* Within twenty days of the notice of docketing, any party may request that the case be assigned for Simplified Proceedings. The request must be in writing. For example, "I request Simplified Proceedings" will suffice. The request must be sent to the Executive Secretary. Copies must be sent to each of the other parties.

(c) *Judge's ruling on request.* The Chief Judge or the Judge assigned to the case may grant a party's request and assign a case for Simplified Proceedings at his or her discretion. Such request shall be acted upon within fifteen days of its receipt by the Judge.

(d) *Time for filing complaint or answer under § 2200.34.* If a party has requested Simplified Proceedings or the Judge has assigned the case for Simplified Proceedings, the times for filing a complaint or answer will not run. If a request for Simplified Proceedings is denied, the period for filing a complaint or answer will begin to run upon issuance of the notice denying Simplified Proceedings.

[60 FR 41809, Aug. 14, 1995, as amended at 62 FR 61012, Nov. 14, 1997; 70 FR 22792, May 3, 2005]

### § 2200.204 Discontinuance of Simplified Proceedings.

(a) *Procedure.* If it becomes apparent at any time that a case is not appropriate for Simplified Proceedings, the Judge assigned to the case may, upon motion by any party or upon the Judge's own motion, discontinue Simplified Proceedings and order the case to continue under conventional rules. Before discontinuing Simplified Proceedings, the Judge will consult with the Chief Judge.

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(b) *Party motion.* At any time during the proceedings any party may request that Simplified Proceedings be discontinued and that the matter continue under conventional procedures. A motion to discontinue must be in writing and explain why the case is inappropriate for Simplified Proceedings. All other parties will have seven days from the filing of the motion to state their agreement or disagreement and their reasons. Joint motions to return a case to conventional proceedings shall be granted by the Judge and do not require a showing of good cause.

(c) *Ruling.* If Simplified Proceedings are discontinued, the Judge may issue such orders as are necessary for an orderly continuation under conventional rules.

[60 FR 41809, Aug. 14, 1995, as amended at 70 FR 22792, May 3, 2005]

### § 2200.205 Filing of pleadings.

(a) *Complaint and answer.* Once a case is designated for Simplified Proceedings, the complaint and answer requirements are suspended. If the Secretary has filed a complaint under § 2200.34(a), a response to a petition under § 2200.37(d)(5), or a response to an employee contest under § 2200.38(a), and if Simplified Proceedings have been ordered, no response to these documents will be required.

(b) *Motions.* A primary purpose of Simplified Proceedings is to eliminate, as much as possible, motions and similar documents. A motion will not be viewed favorably if the subject of the motion has not been first discussed among the parties.

[60 FR 41809, Aug. 14, 1995, as amended at 70 FR 22792, May 3, 2005]

### § 2200.206 Disclosure of information.

(a) *Disclosure to employer.* (1) Within 12 working days after a case is designated for Simplified Proceedings, the Secretary shall provide the employer, free of charge, copies of the narrative (Form OSHA 1-A) and the worksheet (Form OSHA 1-B), or their equivalents.

(2) Within 30 calendar days after a case is designated for Simplified Proceedings, the Secretary shall provide the employer with reproductions of any photographs or videotapes that the